

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

Docket No. 169,534

ORDER

The application of respondent for review by the Workers Compensation Appeals Board of an Award entered by Special Administrative Law Judge William F. Morrissey, dated July 22, 1994, and the Award Nunc Pro Tunc (modifying the date of the Award to read June 22, 1994), dated June 24, 1994, came on for oral argument by telephone conference.

APPEARANCES

Claimant appeared by and through his attorney James B. Zongker of Wichita, Kansas. The respondent and its insurance carrier appeared by and through their attorney Vincent A. Burnett of Wichita, Kansas. The Kansas Workers Compensation Fund appeared by and through its attorney Eric R. Yost of Wichita, Kansas. There were no other appearances.

RECORD

The record as specifically set forth in the Award of the Special Administrative Law Judge is herein adopted by the Appeals Board.

STIPULATIONS

The stipulations as specifically set forth in the Award of the Special Administrative Law Judge are herein adopted by the Appeals Board.

ISSUES

- (1) What is the nature and extent of claimant's injury and disability?
- (2) Is claimant entitled to unauthorized and future medical compensation?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In reviewing the entire evidentiary record and the stipulations of the parties, the Appeals Board makes the following findings of fact and conclusions of law:

Having reviewed the Award of Special Administrative Law Judge William F. Morrissey and the Nunc Pro Tunc Award of June 24, 1994 modifying the date of the original Award, the Appeals Board finds the Administrative Law Judge fully and accurately set out the appropriate factual commentaries and legal conclusions in this matter. The Appeals Board further finds the forty-six percent (46%) whole body work disability assessed by the Special Administrative Law Judge is appropriate and supported by the evidence in this case. The Appeals Board adopts said Award as its own, incorporating same fully by reference as if set out herein.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Special Administrative Law Judge William F. Morrissey, dated July 22, 1994, and the Nunc Pro Tunc Award of Special Administrative Law Judge William F. Morrissey, dated June 24, 1994, shall be and are fully affirmed and claimant is awarded compensation against the respondent, OK Transfer and Storage, Inc., and its insurance carrier, Insurance Company of North America, and the Kansas Workers Compensation Fund for an accidental injury sustained on July 7, 1991, based upon an average weekly wage of \$773.96, for 25 weeks temporary total disability compensation at the rate of \$289.00 per week in the sum of \$7,225.00, followed thereafter by 390 weeks permanent partial general body work disability compensation at the rate of \$237.36 per week in the sum of \$92,570.40, for a 46% permanent partial general body work disability, making a total award of \$99,795.40.

As of June 30, 1995, there would be due and owing claimant 25 weeks temporary total disability compensation at the rate of \$289.00 per week in the sum of \$7,225.00, followed thereafter by 182.86 weeks permanent partial general body work disability at the rate of \$237.36 totalling \$43,403.65 making a total due and owing of \$50,628.65, less any compensation previously paid. Claimant is, thereafter, entitled to 207.14 weeks permanent partial general body disability compensation at the rate of \$237.36 per week in the amount of \$49,166.75 until fully paid or until further order of the Director.

Future medical benefits are awarded upon proper application to and approval by the Director.

Unauthorized medical expenses of up to \$350.00 are ordered paid to claimant upon presentation of an itemized statement justifying same.

All compensation, medical expenses and costs are to be borne one-half by the respondent and one-half by the Kansas Workers Compensation Fund.

Claimant's attorney fee contract is herein approved, insofar as it is not in contravention with K.S.A. 44-536.

The fees and expenses necessary to defray the expense of the administration of the Workers Compensation Act are hereby assessed one-half against the respondent and its insurance carrier and one-half against the Kansas Workers Compensation Fund to be paid as follows:

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| William F. Morrissey Special Administrative Law Judge | \$150.00 |
| Barber & Associates | |
| Transcript of Regular Hearing | \$ 75.10 |
| Deposition of John McMurtry | \$260.00 |
| Deposition of Ernest Schlachter, M.D. | \$218.00 |
| Deposition of Jerry Hardin | \$383.20 |
| Deposition Services | |
| Transcript of Preliminary Hearing | \$ 65.80 |
| Satterfield Reporting Services | |
| Deposition of Karen Terrill | \$175.00 |
| Deposition of Robert Eyster, M.D. | \$105.00 |

IT IS SO ORDERED.

Dated this ____ day of July, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: James B. Zongker, Wichita, Kansas
Vincent A. Burnett, Wichita, Kansas
Eric R. Yost, Wichita, Kansas

William F. Morrissey, Special Administrative Law Judge
David A. Shufelt, Acting Director